

McCARTER & ENGLISH, LLP

Four Gateway Center
100 Mulberry Street
Newark, New Jersey 07102
(973) 622-4444

Attorneys for Defendants

Whirlpool Corporation, Lowe's Home Centers, LLC,
Sears Holdings Corporation, and Fry's Electronics, Inc.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

CHARLENE DZIELAK, SHELLEY BAKER,
FRANCIS ANGELONE, BRIAN MAXWELL,
JEFFERY REID, KARI PARSONS, CHARLES
BEYER, JONATHAN COHEN, JENNIFER
SCHRAMM, and ASPASIA CHRISTY on behalf
of themselves and all others similarly situated,

Plaintiffs,

v.

WHIRLPOOL CORPORATION, LOWE'S HOME
CENTERS, LLC, SEARS HOLDINGS
CORPORATION, THE HOME DEPOT (U.S.A.),
INC., FRY'S ELECTRONICS, INC. and
APPLIANCE RECYCLING CENTERS OF
AMERICA, INC.,

Defendants.

Civil Action No. 2:12-cv-00089-KM-JBC
Honorable Kevin McNulty
Honorable James B. Clark, III

**PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Defendants Whirlpool Corporation, Lowe's Home Centers, LLC, Sears Holdings Corporation, and Fry's Electronics, Inc. ("Defendants") have filed a Motion to Seal ("Defendants' Motion") certain designated portions of Defendants' Brief in Opposition to Plaintiffs' Motion for Class Certification, certain designated portions of declarations filed in

support, certain exhibits filed in further support, and their expert reports. The Court has considered the Motion and determines that Defendants have satisfied Local Civil Rule 5.3(c):

1. The parties entered into a Discovery Confidentiality Order to protect from disclosure discovery materials containing trade secrets, commercially sensitive information, and other proprietary and confidential business matters, and discovery in this case includes trade secrets, proprietary information, commercially sensitive information, and other proprietary and confidential business matters.

2. Defendants' Motion seeks to seal (1) confidential designated portions of Defendants' Brief; (2) confidential designated portions of the Declaration of J.B. Hoyt; (3) exhibits 4, 5, 8, and 9 to the Declaration of J.B. Hoyt; (4) confidential designated portions of the Declaration of David M. Whitehead; (5) exhibit 1 to the declaration of David M. Whitehead; (6) confidential designated portions of the Declaration of Christopher Chisek; and (7) exhibits 1, 2, and 3 to the Declaration of Christopher Chisek. In addition, Defendants seek to seal the expert reports of John R. Fessler, Ph.D., P.E., M. Laurentius Marais, Ph.D., Peter E. Rossi, and Carol A. Scott, Ph.D. because they extensively quote from and reference Plaintiffs' expert reports, which were filed under seal.

3. The Court concludes that Defendants have a legitimate interest in the continued confidentiality of the information and documents described above. The documents contain proprietary engineering information, including highly sensitive trade secrets concerning the technology and mechanical and electrical components found in clothes washers; proprietary internal energy testing procedures, including confidential internal test results; and confidential information relating to pricing strategies and marketing. In addition, the Court concludes that the expert reports of John R. Fessler, Ph.D., P.E., M. Laurentius Marais, Ph.D., Peter E. Rossi, and

Carol A. Scott, Ph.D. extensively quote from and reference Plaintiffs' expert reports, which were filed under seal, and thus should likewise be sealed.

Consequently, the Court orders that Defendants' Motion under Local Civil Rule 5.3(c) is granted and that the Clerk is directed to seal the following documents:

1. Confidential designated portions of Defs.' Brief;
2. Confidential designated portions of the Declaration of J.B. Hoyt;
3. Exhibits 4, 5, 8, and 9 to the Declaration of J.B. Hoyt;
4. Confidential designated portions of the Declaration of David M. Whitehead;
5. Exhibit 1 to the Declaration of David M. Whitehead;
6. Confidential designated portions of the Declaration of Christopher Chisek;
7. Exhibits 1, 2, and 3 to the Declaration of Christopher Chisek;
8. Expert Report of John R. Fessler, Ph.D., P.E.;
9. Expert Report of M. Laurentius Marais, Ph.D.;
10. Expert Report of Peter E. Rossi; and
11. Expert Report of Carol A. Scott, Ph.D.

Dated: June 6, 2016



James B. Clark, III, U.S.M.J.

[This order terminates Dkt. No. 176]